

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 239

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO PHARMACISTS; AMENDING SECTION 54-1705, IDAHO CODE, TO DEFINE A TERM AND TO REVISE A DEFINITION; AMENDING SECTION 54-1719, IDAHO CODE, TO PROVIDE THAT THE BOARD OF PHARMACY SHALL BE RESPONSIBLE FOR THE COMPOUNDING, DISPENSING AND DISTRIBUTION OF CERTAIN MEDICATIONS, DRUGS, DEVICES AND OTHER MATERIALS WITHIN THE PRACTICE OF PHARMACY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1752, IDAHO CODE, TO REMOVE REFERENCE TO RETAIL PHARMACIES; AND AMENDING SECTIONS 37-3201, 54-1761, 54-4702 AND 54-5110, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-1705, Idaho Code, be, and the same is hereby amended to read as follows:

54-1705. DEFINITIONS. In this chapter:

(1) "Board of pharmacy" or "board" means the Idaho state board of pharmacy.

(2) "Compounding" means the act of incorporating two (2) or more substances to create a finished drug product.

(3) "Counseling" or "counsel" means the effective communication by the pharmacist of information as set out in this chapter, to the patient or caregiver, in order to improve therapeutic outcomes by maximizing proper use of prescription medications and devices. Specific areas of counseling shall include, but are not limited to:

(a) Name and strength and description of the medication;

(b) Route of administration, dosage, dosage form, continuity of therapy and refill information;

(c) Special directions and precautions for preparation, administration, storage and use by the patient as deemed necessary by the pharmacist;

(d) Side effects or adverse effects and interactions and therapeutic contraindications that may be encountered, including their avoidance, which may interfere with the proper use of the medication or device as was intended by the prescriber, and the action required if they occur;

(e) Techniques for self-monitoring drug therapy; and

(f) Action to be taken in the event of a missed dose.

(34) "Deliver" or "delivery" means the actual, constructive or attempted transfer of a drug or device from one (1) person to another, whether or not for a consideration.

(45) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar related article including any component part or accessory which is:

(a) Recognized in the official United States Pharmacopoeia or official National Formulary, other drug compendia or any supplement to them;

(b) Intended for use in the diagnosis of disease or other conditions, or the cure, mitigation, treatment or prevention of disease in man or other animal;

(c) Intended to affect the structure or any function of the body of man or other animal, and which does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animal, and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

(56) "Dispense" or "dispensing" means the preparation and delivery of a prescription drug pursuant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug.

(67) "Distribute" means the delivery of a drug other than by administering or dispensing.

(78) "Drug" means:

(a) Articles recognized as drugs in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia, other drug compendia or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animal;

(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any articles specified in paragraph (a), (b) or (c) of this subsection.

(89) "Drug order" means an order for a patient of an institutional facility, or for other purposes when permitted by board rules that contains at least the name of the patient; date of issuance; the drug name, strength, and route of administration; directions for use; the name of the prescribing practitioner and, if written, the prescribing practitioner's signature or the signature of the practitioner's agent.

(910) "Drug outlets" means all pharmacies and other facilities with employees or personnel engaged in the practice of pharmacy, in the provision of pharmaceutical care, or in the dispensing, delivering, distributing or manufacturing of drugs or devices.

(101) "Extern" means a bona fide student enrolled in an approved college of pharmacy who has not received his first professional degree in pharmacy.

(112) "Externship" means a structured practical experience program in pharmacy, approved by the board and administered by a college of pharmacy.

(123) "Institutional facility" means a facility for which its primary purpose is to provide a physical environment for patients to obtain health care services and in which patients spend a majority of their time, as may be further defined by board rules.

(134) "Intern" means any person who has completed a course of study at an approved college of pharmacy, received the first professional degree in pharmacy and is registered with the board as an intern. Interns must register with the board prior to commencement of an internship program.

(145) "Internship" means a postgraduate practical experience program under the supervision of a preceptor at a preceptor site.

1 (156) "Investigational or new drug" means any drug which is limited by
 2 state or federal law to use under professional supervision of a practitioner
 3 authorized by law to prescribe or administer such drug.

4 (167) "Labeling" means the process of preparing and affixing of a la-
 5 bel to any drug container, exclusive however, of the labeling by a manufac-
 6 turer, packer or distributor of a nonprescription drug or commercially pack-
 7 aged legend drug or device. Any such label shall include all information re-
 8 quired by federal and state law or regulation.

9 (178) "Limited service outlet" means a facility that is subject to reg-
 10 istration or licensure by the board, pursuant to section 54-1729(3), Idaho
 11 Code, in that it has employees or personnel engaged in the practice of phar-
 12 macy, in the provision of pharmaceutical care, or in the dispensing, deliv-
 13 ering, distributing or manufacturing of drugs or devices but is not a re-
 14 tail pharmacy, institutional facility, manufacturer, wholesaler, veteri-
 15 nary drug outlet, telepharmacy across state lines or mail service pharmacy.

16 (189) "Manufacture" means the production, preparation, propagation,
 17 compounding, conversion or processing of a device or a drug, either directly
 18 or indirectly by extraction from substances of natural origin or indepen-
 19 dently by means of chemical synthesis or by a combination of extraction and
 20 chemical synthesis and includes any packaging or repackaging of the sub-
 21 stance or labeling or relabeling of its container, except that this term does
 22 not include the preparation or compounding of a drug by an individual for his
 23 own use or the preparation, compounding, packaging or labeling of a drug:

24 (a) By a pharmacist or practitioner as an incident to his administering
 25 ~~or~~, dispensing or, as authorized by board rule, distributing of a drug
 26 in the course of his professional practice; or

27 (b) By a practitioner or by his authorization under his supervision for
 28 the purpose of or as an incident to research, teaching or chemical anal-
 29 ysis and not for sale.

30 (1920) "Manufacturer" means a person who by compounding, cultivating,
 31 harvesting, mixing or other process, produces or prepares legend drugs,
 32 and includes persons who prepare such drugs in dosage forms by mixing, com-
 33 compounding, encapsulating, entableting, or other process, or who packages or
 34 repackages such drugs, but does not include pharmacists or practitioners in
 35 the practice of their profession.

36 (201) "Nonprescription drugs" means medicines or drugs which may be
 37 sold without a prescription and which are prepackaged for use by the consumer
 38 and labeled in accordance with the requirements of the statutes and regula-
 39 tions of this state and the federal government.

40 (212) "Person" means an individual, corporation, partnership, associa-
 41 tion or any other legal entity.

42 (223) "Pharmaceutical care" means drug therapy and other pharmaceuti-
 43 cal patient care services intended to achieve outcomes related to the cure or
 44 prevention of a disease, elimination or reduction of a patient's symptoms,
 45 or arresting or slowing of a disease process as defined in the rules of the
 46 board.

47 (234) "Pharmacist" means an individual licensed by this state to engage
 48 in the practice of pharmacy or a pharmacist licensed in another state who is
 49 registered by the board of pharmacy to engage in the practice of telepharmacy
 50 across state lines.

1 (245) "Pharmacy" means any facility, department or other place where
 2 prescriptions are filled or compounded and are sold, dispensed, offered or
 3 displayed for sale, which has, as its principal purpose, the dispensing of
 4 drug and health supplies intended for the general health, welfare and safety
 5 of the public.

6 (256) "Practice of telepharmacy" means the provision of pharmaceuti-
 7 cal care by registered or licensed pharmacies and pharmacists located within
 8 United States jurisdictions through the use of telecommunications or other
 9 technologies to patients at distances that are located within United States
 10 jurisdictions, as defined in the rules of the board.

11 (267) "Practice of telepharmacy across state lines" means the practice
 12 of telepharmacy when the patient is located within the state of Idaho and the
 13 pharmacist is located in a United States jurisdiction outside the state of
 14 Idaho, as defined in the rules of the board.

15 (278) "Practitioner" means a person licensed in this state and permit-
 16 ted by such license to dispense, conduct research with respect to or adminis-
 17 ter drugs in the course of professional practice or research in this state.

18 (289) "Precursor" means a substance, other than a legend drug which is
 19 an immediate chemical intermediate that can be processed or synthesized into
 20 a legend drug, and is used or produced primarily for use in the manufacture
 21 of a legend drug by persons other than persons licensed to manufacture such
 22 legend drugs by the Idaho board of pharmacy, registered by the state board
 23 of health and welfare, or licensed to practice pharmacy by the Idaho board of
 24 pharmacy.

25 (2930) "Preceptor" means a pharmacist licensed in the state and in good
 26 standing, who supervises the internship training of a registered intern.
 27 The preceptor shall be actively engaged in the practice of pharmacy on a
 28 full-time employment basis at a registered preceptor site.

29 (301) "Preceptor site" means any training site for pharmacy interns and
 30 externs registered with the board pursuant to board rule.

31 (312) "Prescription drug or legend drug" means a drug which, under fed-
 32 eral law is required, prior to being dispensed or delivered, to be labeled
 33 with one (1) of the following statements:

34 (a) "Caution: Federal law prohibits dispensing without a prescrip-
 35 tion"; or

36 (b) "Rx Only"; or

37 (c) "Caution: Federal law restricts this drug to use by or on the order
 38 of a licensed veterinarian";

39 or a drug which is required by any applicable federal or state law or regula-
 40 tion to be dispensed on prescription only or is restricted to use by practi-
 41 tioners only.

42 (323) "Prescription drug order" means a lawful written or verbal order
 43 of a practitioner for a drug or device for an ultimate user of the drug or de-
 44 vice, issued and signed by a practitioner, or an order transmitted verbally
 45 from a practitioner or the practitioner's agent to a pharmacist in a phar-
 46 macy, or transmitted verbally from a practitioner and immediately reduced to
 47 writing by a licensed practical nurse or licensed professional nurse in an
 48 institutional facility for a patient or resident of such facility.

49 (334) "Prospective drug review" includes, but is not limited to, the
 50 following activities:

- 1 (a) Evaluation of the prescription or medication order for:
- 2 (i) Known allergies;
- 3 (ii) Rational therapy contraindications;
- 4 (iii) Reasonable dose and route of administration; and
- 5 (iv) Reasonable directions for use.
- 6 (b) Evaluation of the prescription or medication order for duplication
- 7 of therapy.
- 8 (c) Evaluation of the prescription or medication order for interac-
- 9 tions:
- 10 (i) Drug-drug;
- 11 (ii) Drug-food; and
- 12 (iii) Drug-disease.
- 13 (d) Evaluation of the prescription or medication order for proper uti-
- 14 lization:
- 15 (i) Over or under utilization; and
- 16 (ii) Abuse/misuse.

17 (345) "Record" means all papers, letters, memoranda, notes, prescrip-
 18 tions, drug orders, invoices, statements, patient medication charts or
 19 files, computerized records or other written indicia, documents or objects
 20 which are used in any way in connection with the purchase, sale or handling of
 21 any drug or device.

22 (356) "Sale" means every sale and includes:

- 23 (a) Manufacturing, processing, transporting, handling, packaging or
- 24 any other production, preparation or repackaging;
- 25 (b) Exposure, offer, or any other proffer;
- 26 (c) Holding, storing or any other possession;
- 27 (d) Dispensing, giving, delivering or any other supplying; and
- 28 (e) Applying, administering or any other usage.

29 (367) "Warehouseman" means a person who stores legend drugs for others
 30 and who has no control over the disposition of such drugs except for the pur-
 31 pose of such storage.

32 (378) "Wholesaler" means a person engaged in the business of distribut-
 33 ing legend drugs that he himself has not produced or prepared, to persons in-
 34 cluded in any of the classes named in subsection (2) (a) through (f) of sec-
 35 tion 54-1734, Idaho Code.

36 SECTION 2. That Section 54-1719, Idaho Code, be, and the same is hereby
 37 amended to read as follows:

38 54-1719. MEDICATIONS -- DRUGS -- DEVICES -- OTHER MATERIALS. The board
 39 of pharmacy shall also have the following responsibilities in regard to med-
 40 ications, drugs, devices and other materials used in this state in the di-
 41 agnosis, mitigation and treatment or prevention of injury, illness and dis-
 42 ease:

- 43 (1) The regulation of the sale at retail and the dispensing of med-
- 44 ications, drugs, devices and other materials, including the method of
- 45 dispensing in institutional facilities, and including the right to seize
- 46 such drugs, devices and other materials found to be detrimental to the public
- 47 health and welfare by the board after appropriate hearing as required under
- 48 the administrative procedures act;

1 (2) The specifications of minimum professional and technical equip-
 2 ment, environment, supplies and procedures for the compounding and/or,
 3 dispensing and distribution of such medications, drugs, devices and other
 4 materials within the practice of pharmacy;

5 (3) The control of the purity and quality of such medications, drugs,
 6 devices and other materials within the practice of pharmacy;

7 (4) The issuance and renewal of certificates of registration of drug
 8 outlets for purposes of ascertaining those persons engaged in the manufac-
 9 ture and distribution of drugs.

10 SECTION 3. That Section 54-1752, Idaho Code, be, and the same is hereby
 11 amended to read as follows:

12 54-1752. DEFINITIONS. As used in sections 54-1751 through 54-1759,
 13 Idaho Code:

14 (1) "Authentication" means to affirmatively verify before any whole-
 15 sale distribution of a prescription drug occurs that each transaction listed
 16 on the pedigree has occurred.

17 (2) "Authorized distributor of record" means a wholesale distributor
 18 with whom a manufacturer has established an ongoing relationship to dis-
 19 tribute the manufacturer's prescription drug. An ongoing relationship is
 20 deemed to exist between such wholesale distributor and a manufacturer when
 21 the wholesale distributor, including any affiliated group of the wholesale
 22 distributor, as defined in section 1504 of the Internal Revenue Code, com-
 23 plies with the following:

24 (a) The wholesale distributor has a written agreement currently in ef-
 25 fect with the manufacturer evidencing such ongoing relationship; and

26 (b) The wholesale distributor is listed on the manufacturer's current
 27 list of authorized distributors of record, which is updated by the manu-
 28 facturer on no less than a monthly basis.

29 (3) "Chain pharmacy warehouse" means a physical location for prescrip-
 30 tion drugs that acts as a central warehouse and performs intracompany sales
 31 or transfers of such drugs to a group of chain pharmacies that have the same
 32 common ownership and control.

33 (4) "Colicensed partner or product" means an instance where two (2) or
 34 more parties have the right to engage in the manufacturing and/or marketing
 35 of a prescription drug, consistent with the federal food and drug adminis-
 36 tration's implementation of the prescription drug marketing act.

37 (5) "Drop shipment" means the sale of a prescription drug to a whole-
 38 sale distributor or chain pharmacy warehouse by the manufacturer of the
 39 prescription drug, or that manufacturer's colicensed product partner, that
 40 manufacturer's third party logistics provider or that manufacturer's ex-
 41 clusive distributor, whereby the wholesale distributor or chain pharmacy
 42 warehouse takes title but not physical possession of such prescription
 43 drug and the wholesale distributor invoices the pharmacy or chain pharmacy
 44 warehouse, or other person authorized by law to dispense or administer such
 45 drug to a patient, and the pharmacy or chain pharmacy warehouse or other
 46 authorized person receives delivery of the prescription drug directly from
 47 the manufacturer, or that manufacturer's third party logistics provider, or
 48 that manufacturer's exclusive distributor.

1 (6) "Facility" means a facility of a wholesale distributor where pre-
2 scription drugs are stored, handled, repackaged or offered for sale.

3 (7) "Manufacturer" means a person licensed or approved by the federal
4 food and drug administration to engage in the manufacture of drugs or de-
5 vices, consistent with the federal food and drug administration definition
6 of "manufacturer" under its regulations and guidance implementing the pre-
7 scription drug marketing act.

8 (8) "Manufacturer's exclusive distributor" means anyone who contracts
9 with a manufacturer to provide or coordinate warehousing, distribution or
10 other services on behalf of a manufacturer and who takes title to that manu-
11 facturer's prescription drug, but who does not have general responsibility
12 to direct the sale or disposition of the manufacturer's prescription drug.
13 Such manufacturer's exclusive distributor must be licensed as a wholesale
14 distributor under section 54-1753, Idaho Code, and to be considered part of
15 the normal distribution channel, must also be an authorized distributor of
16 record.

17 (9) "Normal distribution channel" means a chain of custody for a pre-
18 scription drug that goes from a manufacturer of the prescription drug, from
19 that manufacturer to that manufacturer's colicensed partner, from that
20 manufacturer to that manufacturer's third party logistics provider, from
21 that manufacturer to that manufacturer's exclusive distributor, or from
22 that manufacturer directly or through its colicensed partner, third party
23 logistics provider or manufacturer's exclusive distributor to a repackager
24 who is an authorized distributor of record for the manufacturer, whose fa-
25 cility is registered with the United States food and drug administration
26 and who engages in the practice of repackaging the original dosage form of a
27 prescription drug in accordance with applicable regulations and guidelines
28 of the United States food and drug administration, either directly or by drop
29 shipment, to:

30 (a) A pharmacy to a patient;

31 (b) Other designated persons authorized by law to dispense or adminis-
32 ter such drug to a patient;

33 (c) A wholesale distributor to a pharmacy to a patient or other desig-
34 nated persons authorized by law to dispense or administer such drug to a
35 patient;

36 (d) A wholesale distributor to a chain pharmacy warehouse to that chain
37 pharmacy warehouse's intracompany pharmacy to a patient or other desig-
38 nated persons authorized by law to dispense or administer such drug to a
39 patient; or

40 (e) A chain pharmacy warehouse to the chain pharmacy warehouse's intra-
41 company pharmacy to a patient or other designated persons authorized by
42 law to dispense or administer such drug to a patient.

43 (10) "Pedigree" means a document or electronic file containing infor-
44 mation that records each wholesale distribution of any given prescription
45 drug.

46 (11) "Prescription drug" means any drug, including any biological prod-
47 uct, except for blood and blood components intended for transfusion or bi-
48 ological products that are also medical devices, required by federal law or
49 federal regulation to be dispensed only by a prescription, including fin-

1 ished dosage forms and bulk drug substances, subject to section 503(b) of the
2 federal food, drug and cosmetic act.

3 (12) "Repackage" means repackaging or otherwise changing the con-
4 tainer, wrapper or labeling to further the distribution of a prescription
5 drug, excluding that completed by the pharmacist responsible for dispensing
6 product to the patient.

7 (13) "Repackager" means a person who repackages.

8 (14) "Third party logistics provider" means anyone who contracts with a
9 prescription drug manufacturer to provide or coordinate warehousing, dis-
10 tribution or other services on behalf of a manufacturer, but does not take
11 title to the prescription drug or have general responsibility to direct
12 the prescription drug's sale or disposition. Such third party logistics
13 provider must be licensed as a wholesale distributor under section 54-1753,
14 Idaho Code, and to be considered part of the normal distribution channel,
15 must also be an authorized distributor of record.

16 (15) "Veterinary pharmacy" means a business properly licensed as a
17 pharmacy engaging exclusively in the preparation and dispensing of pre-
18 scription drugs for veterinary prescribed use.

19 (16) "Wholesale distributor" means anyone engaged in the wholesale dis-
20 tribution of prescription drugs including, but not limited to:

- 21 (a) Manufacturers;
- 22 (b) Repackagers;
- 23 (c) Own-label distributors;
- 24 (d) Private-label distributors;
- 25 (e) Jobbers;
- 26 (f) Brokers;
- 27 (g) Warehouses, including manufacturers' and distributors' ware-
28 houses;
- 29 (h) Manufacturer's exclusive distributors;
- 30 (i) Authorized distributors of record;
- 31 (j) Drug wholesalers or distributors;
- 32 (k) Independent wholesale drug traders;
- 33 (l) Specialty wholesale distributors;
- 34 (m) Third party logistics providers;
- 35 (n) Retail pharmacies that conduct wholesale distribution; and
- 36 (o) Chain pharmacy warehouses that conduct wholesale distribution.

37 To be considered part of the normal distribution channel, such wholesale
38 distributor, except for a chain pharmacy warehouse not engaged in wholesale
39 distribution, must also be an authorized distributor of record.

40 (17) "Wholesale distribution" means distribution of prescription drugs
41 to persons other than a consumer or patient, but does not include:

- 42 (a) Intracompany sales of prescription drugs, meaning any transaction
43 or transfer between any division, subsidiary, parent or affiliated
44 or related company under common ownership and control of a corporate
45 entity, or any transaction or transfer between colicensees of a col-
46 icensed product.
- 47 (b) The sale, purchase, distribution, trade or transfer of a prescrip-
48 tion drug or offer to sell, purchase, distribute, trade or transfer a
49 prescription drug for emergency medical reasons.

1 (c) The distribution of prescription drug samples by manufacturers'
2 representatives.

3 (d) Drug returns, when conducted by a hospital, health care entity or
4 charitable institution in accordance with 21 CFR 203.23.

5 (e) Drug donations, when conducted in accordance with sections 54-1760
6 through 54-1765, Idaho Code.

7 (f) The sale of minimal quantities of prescription drugs by ~~retail~~
8 pharmacies to licensed practitioners for office use.

9 (g) The sale, purchase or trade of a drug, an offer to sell, purchase or
10 trade a drug, or the dispensing of a drug pursuant to a prescription.

11 (h) The sale, transfer, merger or consolidation of all or part of the
12 business of a pharmacy or pharmacies from or with another pharmacy or
13 pharmacies, whether accomplished as a purchase and sale of stock or
14 business assets.

15 (i) The sale, purchase, distribution, trade or transfer of a pre-
16 scription drug from one (1) authorized distributor of record to one (1)
17 additional authorized distributor of record when the manufacturer has
18 stated in writing to the receiving authorized distributor of record
19 that the manufacturer is unable to supply such prescription drug and the
20 supplying authorized distributor of record states in writing that the
21 prescription drug being supplied had, until that time, been exclusively
22 in the normal distribution channel.

23 (j) The delivery of, or offer to deliver, a prescription drug by a
24 common carrier solely in the common carrier's usual course of business
25 of transporting prescription drugs, and such common carrier does not
26 store, warehouse or take legal ownership of the prescription drug.

27 (k) The sale or transfer from a retail pharmacy or chain pharmacy ware-
28 house of expired, damaged, returned or recalled prescription drugs to
29 the original manufacturer or third party returns processor, including a
30 reverse distributor.

31 (l) The sale of a prescription drug by a veterinary pharmacy to the pre-
32 scribing veterinarian in which:

33 (i) The prescribing veterinarian takes title but not physical
34 possession of such prescription drug and invoices the owner or
35 person having custody of the animal for whom the prescription drug
36 is intended; and

37 (ii) Pursuant to a valid prescription drug order the veterinary
38 pharmacy labels and delivers the prescription drug directly to the
39 owner or person having custody of the animal for whom the prescrip-
40 tion drug is intended.

41 SECTION 4. That Section 37-3201, Idaho Code, be, and the same is hereby
42 amended to read as follows:

43 37-3201. DEFINITIONS. As used in this chapter:

44 (1) "Code imprint" means a series of letters or numbers assigned by the
45 manufacturer or distributor to a specific drug, or marks or monograms unique
46 to the manufacturer or distributor of the drug, or both;

47 (2) "Distributor" means a person who distributes for resale a drug in
48 solid dosage form under his own label even though he is not the actual manu-
49 facturer of the drug;

1 (3) "Solid dosage form" means capsules or tablets intended for oral
2 use;

3 (4) "Legend drug" means any drug defined by section 54-1705(3~~1~~2), Idaho
4 Code.

5 SECTION 5. That Section 54-1761, Idaho Code, be, and the same is hereby
6 amended to read as follows:

7 54-1761. DEFINITIONS. As used in sections 54-1760 through 54-1765,
8 Idaho Code:

9 (1) "Legend drug" has the same meaning as provided in section
10 54-1705(3~~1~~2), Idaho Code.

11 (2) "Medically indigent" means any person who is in need of a legend
12 drug and who is not eligible for medicaid or medicare, who cannot afford pri-
13 vate prescription drug insurance or who does not have income and other re-
14 sources available sufficient to pay for the legend drug.

15 (3) "Qualifying charitable clinic or center" means a community health
16 center as defined in section 39-3203, Idaho Code, and means a free medical
17 clinic as defined in section 39-7702, Idaho Code, acting in consultation
18 with a pharmacist licensed in the state of Idaho.

19 SECTION 6. That Section 54-4702, Idaho Code, be, and the same is hereby
20 amended to read as follows:

21 54-4702. DEFINITIONS. As used in this chapter:

22 (1) "Acupuncture" means that theory of health care developed from tra-
23 ditional and modern Oriental medical philosophies that employs diagnosis
24 and treatment of conditions of the human body based upon stimulation of spe-
25 cific acupuncture points on meridians of the human body for the promotion,
26 maintenance, and restoration of health and for the prevention of disease.
27 Therapies within the scope of acupuncture include manual, mechanical, ther-
28 mal, electrical and electromagnetic treatment of such specific indicated
29 points. Adjunctive therapies included in, but not exclusive to, acupuncture
30 include herbal and nutritional treatments, therapeutic exercise and other
31 therapies based on traditional and modern Oriental medical theory.

32 (2) "Board" means the Idaho state board of acupuncture.

33 (3) "NCCAOM" means "National Certification Commission for Acupuncture
34 and Oriental Medicine."

35 (4) "Practice of acupuncture" means the insertion of acupuncture nee-
36 dles and use of similar devices and therapies, including application of mox-
37 ibustion, to specific indicated points on the skin of the human body as indi-
38 cated pursuant to traditional and modern theories of Oriental medicine. The
39 "practice of acupuncture" does not include:

40 (a) surgery; or

41 (b) prescribing, dispensing or administering any prescription drug or
42 legend drug as defined in section 54-1705(3~~1~~2), Idaho Code.

43 SECTION 7. That Section 54-5110, Idaho Code, be, and the same is hereby
44 amended to read as follows:

1 54-5110. NATUROPATHIC MEDICAL FORMULARY COUNCIL ESTABLISHED. There
2 is hereby established a naturopathic medical formulary council, which is
3 separate and distinct from the board, to be composed of seven (7) members.
4 Two (2) members shall be naturopathic physicians licensed under this chap-
5 ter, appointed by the board of naturopathic medical examiners. Three (3)
6 members shall be pharmacists licensed under chapter 17, title 54, Idaho
7 Code, appointed by the board of naturopathic medical examiners from a list
8 of nominees provided by the Idaho state board of pharmacy. Two (2) mem-
9 bers shall be physicians licensed under chapter 18, title 54, Idaho Code,
10 appointed by the board of naturopathic medical examiners from a list of
11 nominees provided by the Idaho state board of medicine. The initial coun-
12 cil shall be appointed as follows: One (1) naturopathic physician shall be
13 appointed for a one (1) year term; one (1) physician licensed under chapter
14 18, title 54, Idaho Code, and one (1) pharmacist shall be appointed for a two
15 (2) year term; and two (2) pharmacists, one (1) naturopathic physician and
16 one (1) physician licensed under chapter 18, title 54, Idaho Code, shall be
17 appointed for a three (3) year term. Thereafter, the term of office shall
18 be three (3) years. A quorum shall consist of five (5) members and shall be
19 required for any vote to be taken. It shall be the duty of the naturopathic
20 medical formulary council to establish a formulary for use by naturopathic
21 physicians, and immediately upon adoption or revision of the formulary,
22 the council shall transmit the approved formulary to the board, which shall
23 adopt the formulary by temporary rule. The formulary will be reviewed annu-
24 ally by the council, or at any time at the request of the board. The formulary
25 list may not go beyond the scope of prescription medicines and medical de-
26 vices covered by approved naturopathic medical education and training and
27 existing naturopathic medical formularies, or board-approved continuing
28 education. The naturopathic medical formulary shall not include medicines
29 and devices that are inconsistent with the training provided by approved
30 naturopathic medical colleges. Nothing herein shall allow a naturopathic
31 physician to dispense, administer or prescribe any prescription drug as
32 defined in section 54-1705(34~~2~~), Idaho Code, or medical device unless such
33 prescription drug or medical device is specifically included in the naturo-
34 pathic medical formulary.